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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/625,228	07/24/2000	David Caplan	A-67467-2/RBC//MAK	6295
23910	7590	02/04/2004	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			TRAN, KHOA H	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 02/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/625,228

Applicant(s)

CAPLAN ET AL.

Examiner

Khoa Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on amdt filed on 9/25/03 and a letter filed.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15-21,23,37-45,50 and 52-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 50,52 and 54-58 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☒ Claim(s) 15-21,23 and 37-45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 26 and 29. 6) ☐ Other: \_\_\_\_\_

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Applicant's letter filed on January 05, 2004 pointing out an Office error with respect to the shortened statutory period and that a new Office action be mailed that correctly sets the shortened statutory period is acknowledged. A review of the filed record indicates that applicant is correct with respect to a two month shortened statutory period being set instead of a three month period. Accordingly, the Final rejection is being remailed with new corrected PTOL-326 form that properly sets the shortened statutory period at three months. The three month period to respond to the Final rejection runs from the mailing date of the instant action.

### ***Claim Objections***

Claim 54, line 1 is objected to because "felt" should be --a felt--. Further, on page 3, "Claims 24-39 (canceled)" should be --Claims 24-36 (canceled)--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-21, 23, and 37-45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to 15, lines 7-8, and claim 37, lines 12-13, it's unclear how can a second/female holder-engaging mechanism having a distal end which is shaped to be receive in the slot on the base.

It's suggested that --of an adjacent holder-- should be inserted after the word "slot" on line 8 of claim 15 and line 13 of claim 37.

### ***Reasons for Allowance***

Claims 15, 37, 50, 52, and 55-58 are generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 20, 21, 43, 53 and 54 are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 15-21, 23, and 37-45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

The following is an examiner's statement of reasons for allowance:

Claims 15-21, 23, 37-45, 50, and 52-58 are allowed over the prior art of record because none of the prior art of record teaches or suggests a holder that creates a continuous loop possessing the entire combination of features specified by the claim. In particular, there is no teaching from the prior art of a first holder-engaging mechanism extending out from the base with a slot located adjacent thereto, and a second holder-engaging mechanism extending out from the base having a distal end, which the distal end is shaped in order to receive in the slot, and wherein the first holder-engaging mechanism on the holder is disposed to matingly interlock with a second holder-engaging mechanism on a second holder, and the second holder-engaging mechanism on the holder is disposed to matingly interlock with a first holder engaging mechanism on a third holder to form the loop, and wherein the distal end of the second holder-engaging mechanism of the second holder can pass through the slot located adjacent to the first holder-engaging mechanism of the holder to which the second holder-engaging mechanism is inserted to allow the second holder to spread apart from the holder. See claim 15, lines 5-15.

Further, there is no teaching from the prior art of the male coupling mechanism extending from the base with a slot located through the base and adjacent to the male coupling mechanism, the female coupling mechanism extending from the base having a distal end, which distal end is shaped in order to receive in the slot of an adjacent holder, and wherein the distal end of the female coupling mechanism can pass through the slot located adjacent to the male holder-engaging mechanism of an adjacent holder to which the female coupling mechanism is inserted to allow the holder and another

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holder to spread apart in relation to each other. See claims 37, lines 11-16, claim 50, lines 15-21, claim 52, lines 9-15, claim 55, lines 11-17, and claims 56, 57, and 58, lines 12-18.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437. The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:30 P.M.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group before a final Office action is (703) 872-9326 and after a final Office action is (703) 872-9327.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

Khoa Tran  
January 21, 2004

A handwritten signature in cursive script that reads "Daniel P. Stodola". The signature is written in black ink and is positioned to the right of the main body of text.

DANIEL P. STODOLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600